

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 00-6026-CIV-FERGUSON/SNOW

WORLDNET COMPANIES, INC.,
a Florida corporation,
Plaintiff,

vs.

KLELINE, a Limited Company,
a corporation incorporated under the laws
of France, ABDALLAH HITTI, individually,
AYHUB HITTI, individually,
BANQUE PARIBAS S.A., a banking
corporation incorporated under the laws of France,
OCRAM EST., a Liechtenstein corporation, and
MICHAEL BENDE, individually,
Defendants.

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
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2000

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION
TO DEFENDANT'S MOTION TO DISMISS

COMES NOW the Plaintiff, WORLDNET COMPANIES, INC., by and through undersigned counsel and pursuant to S.D. Fla. L.R. 7.1 C., and files this Memorandum of Law in Opposition to Defendant MICHAEL BENDE's Motion to Dismiss and states as follows:

1. Plaintiff's Complaint alleges that Defendant MICHAEL BENDE "lives in Boca Raton, Florida, but operates through his alter ego, Defendant OCRAM, from Liechtenstein." Based on that allegation, Defendant MICHAEL BENDE moves to dismiss the Complaint.

2. The Defendant errs in pointing to MICHAEL BENDE's local residence rather than his citizenship because the latter and not the former controls for purposes of diversity jurisdiction.

See Rayfield v. National Auction Group, Inc., 878 F. Supp. 203 (M.D. Ala. 1995).

3. Citizenship, for purposes of diversity jurisdiction, is defined as a person's domicile. Domicile is the place of one's true, fixed, and permanent home and principal establishment. Mas v. Perry, 489 F.2d 1396 (5th Cir. 1974), cert. denied, 419 U.S. 842 (1974).

4. Defendant presents no evidence, and Plaintiff does not concede, that MICHAEL BENDE is a citizen, as opposed to a mere resident, of the state of Florida.

5. As there is no allegation or other indication that MICHAEL BENDE is a citizen of Florida, Defendant's Motion to Dismiss must be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail to Charles Cohen, Esquire. And Leslie Scott Osbourne, Furr and Cohen, P.A., Attorney for BENDE, 1499 West Palmetto Park Road, Suite 412, Boca Raton, Florida.; William D. McEachern, Esq., Winthrop, Stimson, Putman & Roberts, Attorneys for KLELINE, 125 Worth Avenue, Suite 310, Palm Beach, Florida 33480; Gina Ann Dombosch, Esq., Valerie Greeneberg, Itkoff, Esq., and Edward Soto, Esq., Weil Gotshal & Manges, Attorneys for BANQUE PARIBAS, S.A., 701 Brickell Avenue, Suite 2100, Miami, Florida; LAVALLE, BROWN, RONAN & SOFF, P.A., Lawrence K. Fagan, Esq., 750 South Dixie Highway, Boca Raton, Florida 33432, on the 30th day of April, 2000.

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By: John C. Rayson for
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